THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.7269 OF 2007

Dated: 30-04-2007

Between:

Marian Educational Society
And another …Petitioners

And

Alwal Municipality …Respondent

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.7269 OF 2007

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

The petitioners' case is that the second petitioner-institution is a charitable institution and is imparting education up to Class-X and as such, it is not amenable to property tax as has been held by a Full Bench of this Court in its judgment dated 28-12-2006, in W.P.Nos.4214 of 2006 and batch.

Learned counsel for the respondent has not filed counter, but he submits that the matter may be disposed of in terms of the Full Bench Judgment of this Court in W.P.Nos.4214 of 2006 and batch. So, we presume that the respondent has not considered whether the second petitioner-institution was entitled to exemption of property tax or not on the ground that it was a charitable institution and it was imparting education up to Class-X.

The Full Bench of this Court in W.P.Nos.4214 of 2006 and batch held as follows:

> *"Therefore, with the consent of the learned counsel for the parties, we dispose of the writ petitions as well with an observation that before levying of the tax on the petitioners' institutions, the authorities concerned should address to the question as to whether the institutions*

are charitable institutions or not and for such purpose the petitioners are at liberty to make representations to the concerned authorities within one month and after considering such representations, the authorities may pass appropriate orders since at no point of time the authorities have considered whether the petitioner's institutions are charitable institutions or not. Therefore, we are passing such orders to enable the authorities to pass fresh orders after considering the submissions of the petitioners. We are also quashing the impugned notices. The respondents shall be at liberty to raise fresh claims, if any, after hearing the petitioners and deciding their claim that they are charitable institutions."

Therefore, following the judgment of the Full Bench supra, we allow the writ petition, quash the assessment order dated 12-06-2003 and all the consequential demand notices and allow the petitioners to make a representation to the authorities concerned, within one month. The respondent may consider the representation of the petitioners and pass appropriate orders and examine whether the second petitioner-institution is a charitable institution or not and whether it is entitled to exemption or not. No order as to costs.

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(Bilal Nazki,J)

Dated 30th April, 2007

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(Nooty Ramamohana Rao,J)

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